

HOUSE BILL NO. 475

INTRODUCED BY B. DAVIES

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT IN CERTAIN CASES, A PARTY MUST BE AWARDED COSTS AND REASONABLE ATTORNEY FEES ON THE ISSUES ON WHICH THE PARTY PREVAILS; AMENDING SECTIONS 25-10-101 AND 25-10-302, MCA; REPEALING SECTIONS 25-10-102, 25-10-106, AND 25-10-303, MCA; AND PROVIDING AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 25-10-101, MCA, is amended to read:

"25-10-101. When costs ~~allowed, of course, to plaintiff~~ and reasonable attorney fees awarded to prevailing party. (1) ~~Costs are allowed, of course, to the plaintiff upon a judgment in his favor and~~ reasonable attorney fees must be awarded to the prevailing party in the trial or other initial proceeding and to the prevailing party in any appeal in the following cases:

(1)(a) in an action for the recovery of real property or ~~damages thereto~~ damage to real property;

(2)(b) in an action to recover the possession of personal property ~~where~~ when the value of the property exceeds ~~\$50, such~~ \$200. The value ~~shall~~ must be determined by the jury, court, or referee by whom the action is tried;

(3)(c) in an action for the recovery of money or damages, exclusive of interest, when the plaintiff ~~seeks or recovers over \$50~~ \$200;

(4)(d) in a special proceeding;

(5)(e) in an action ~~which~~ that involves the title or possession or right of possession of real estate; or the legality of any tax, impost, assessment, toll, or municipal fine; or quo warranto proceedings;

(6)(f) in an action to foreclose a lien or pledge, to prevent or abate a nuisance, or for an injunction;

or

(7)(g) in an action for property damage arising out of the ownership, maintenance, or use of a motor vehicle ~~if he is entitled to attorney's fees under 25-10-303~~.

(2) A party prevailing on some but not all of the matters or issues in dispute must be awarded costs and attorney fees relating to the matters or issues upon which the party prevailed, as determined

1 by the court."

2

3 **Section 2.** Section 25-10-302, MCA, is amended to read:

4 **"25-10-302. (Temporary) Inclusion of ~~attorney's~~ attorney fees in bill of costs.** The ~~attorney's~~
5 attorney fees mentioned in 30-9-511, 71-1-233, and 71-3-124, ~~and 25-10-303~~ need not be included in
6 the cost bill if they are made a part of the judgment.

7 **25-10-302. (Effective July 1, 2001) Inclusion of ~~attorney's~~ attorney fees in bill of costs.** The
8 attorney fees mentioned in ~~25-10-303~~, 30-9-607, 71-1-233, and 71-3-124 need not be included in the
9 cost bill if they are made a part of the judgment."

10

11 NEW SECTION. **Section 3. Repealer.** Sections 25-10-102, 25-10-106, and 25-10-303, MCA, are
12 repealed.

13

14 NEW SECTION. **Section 4. Applicability.** [This act] applies to actions and proceedings filed after
15 October 1, 2001.

16

- END -